

PT 01-60

Tax Type: Property Tax

Issue: Government Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**PACE, the SUBURBAN BUS
DIVISION OF THE REGIONAL
TRANSPORTATION AUTHORITY,
APPLICANT**

v.

**ILLINOIS DEPARTMENT
OF REVENUE**

**No. 00-PT-0004
(98-16-0942)**

P.I.N.: 01-32-302-030

**Alan I. Marcus
Administrative Law Judge**

RECOMMENDATION FOR DISPOSITION

APPEARANCE: Ms. Angela E. Dietz of Neal, Gerber and Eisenberg on behalf of Pace, the Suburban Division of the Regional Transportation Authority (hereinafter “Pace” or the “applicant.”)

SYNOPSIS: This matter comes to be considered pursuant to Pace’s request for hearing, which applicant reserved in a Motion for Summary Judgment that it filed with the Illinois Department Of Revenue (hereinafter the “Department”) on October 20, 2000. Applicant filed this motion after the Department issued a determination finding that applicant was not the owner of real estate identified by Cook County Parcel Index Number 01-32-302-030 during the 1998 assessment year. The underlying controversy arises as follows:

Applicant filed an Application for Property Tax Exemption with the Cook County Board of Review (hereinafter the “Board”) on July 1, 1999. The Board reviewed the

application and recommended that the Illinois Department Of Revenue (hereinafter the “Department”) that the requested exemption be granted.

The Department rejected this recommendation in a determination dated November 12, 1999. Said determination found, in pertinent part, that the subject property was not in exempt ownership because applicant was not the owner thereof. Pace filed a timely appeal to the Department’s determination and later filed its motion for summary judgment, in which it reserved a right to hearing as to any and all issues decided against its interest.

On January 30, 2001, I issued an Order Denying Applicant’s Motion for Summary Judgment on grounds that applicant lacked standing to bring the instant exemption complaint. Pursuant to the reservation contained in its motion for summary judgment, applicant then presented evidence as to its standings at an evidentiary hearing. Following a careful review of the record made at that hearing, I recommend that this matter be dismissed for want of standing.

SUPPLEMENTAL FINDINGS OF FACT:¹

1. The Cook County Collector (hereinafter the “Collector”) issued a tax bill in the amount of \$21,239.88 to the fee owner of the subject property, Sears Roebuck and Company (hereinafter “Sears”), sometime in the latter half of 1999. Applicant Hearing Group Ex. No. 1, Doc. B.

1. In the interest of brevity, and to the extent relevant, the Findings of Fact and Conclusions of Law contained in that Order Summary Judgment, a true and correct copy of which is attached hereto and fully incorporated by reference herein, are hereby adopted as Findings of Fact and Conclusions of Law for purposes of this Recommendation. Therefore, any new or additional Findings or Conclusions drawn from the Evidence adduced at hearing shall be referred to as “Supplemental Findings of Fact” or “Supplemental Conclusions of Law,” as the case may be.

2. This bill indicated that the Collector had designated the subject property as a “new parcel,” which meant that no previous assessments had been made against, and no other real estate taxes were payable for, the subject property. *Id.*
3. Sears paid any and all real estate taxes levied against the subject property, as invoiced on the Collector’s bill, by corporate check dated October 19, 1999. Applicant Hearing Group Ex. No. 1, Document. C.

SUPPLEMENTAL CONCLUSIONS OF LAW:

The Order Denying Applicant’s Motion for Summary Judgment (hereinafter the “Order”) concluded, in relevant part, that applicant did not have standing to bring the instant exemption complaint. (Order p. 5). The statutory basis for this conclusion is found in Section 9-175 of the Property Tax Code, which states that “[t]he owner of property on January 1 in any year shall be liable for the taxes of that year...[.]” 35 ILCS 200/9-175. Here, applicant held no ownership interest in the subject property during the tax year in question. As such, it was not legally liable for any property taxes levied thereon.

Nor did applicant itself actually pay any 1998 real estate taxes on said property. Rather, the evidence adduced at hearing clearly establishes that the non-exempt party legally responsible for paying such taxes, Sears, in fact made the requisite payment. Consequently, applicant neither incurred any statutory liability for, nor made any manifestation to actually pay, the property taxes presently at issue.

Based on the foregoing, I conclude that it is legally and factually impossible for applicant to hold “a direct and substantial interest in” the outcome of this proceeding. Highland Park Women's Club v. Department of Revenue, 206 Ill. App.3d 447 (2nd Dist.

1991). Therefore, the exemption complaint it filed herein should be dismissed for want of standing.

Applicant's counsel seeks to alter this conclusion by proposing a hypothetical wherein she would have no standing to contest her property tax liability if her parents were to pay any taxes levied against her house. (Tr. p. 11). This hypothetical is, however, based on a misperception of the essential facts of this case.

Here, one party, *and only one party*, is *both* legally liable for paying, *and actually did pay*, whatever real estate taxes were levied against the subject property. Thus, that party, Sears, is the only one which holds the financial stake necessary to claim standing.

Conversely, in counsel's hypothetical, there is a dichotomy between the party who bears the statutory liability (counsel) and the party that derives a financial stake in the outcome from its voluntary act of payment (her parents). Hence, while either counsel or her parents might make a valid claim of standing under her hypothetical, the facts presented therein simply do not correspond to the present facts. Therefore, I am unpersuaded thereby.

In summary, the evidence adduced at hearing fails to demonstrate that applicant has any financial stake in the outcome of this proceeding. Therefore, applicant lacks standing to bring the instant exemption complaint. Accordingly, said complaint should be dismissed for want of standing. For this reason, the subject property should remain subject to 1998 real estate taxes, with any and all such taxes being assessed to the owner of said property, Sears.

WHEREFORE, for all the above stated reasons, it is my recommendation that real estate identified by Cook County Parcel Index Number 01-32-302-030 not be exempt from 1998 real estate taxes.

October 30, 2001
Date

Alan I. Marcus
Administrative Law Judge